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HISTORY OF CANADA.

(CONTINUED.)

The Honorable Paulus Emilius Irving, one of the Legislative Councilors was named Commander in Chief of the Province in place of Gen. Murray who had been recalled; as soon as he had taken the reins of the Administration, he issued a Proclamation to continue in office the different public functionaries.

The political horizon of the English colonies looked at that period rather dark; it was evident that from the haughty and unjustifiable conduct of the metropolitan authorities together with the just and manly remonstrances of the colonists, there would very soon arise great difficulties if one or the other did not give way. This contest between the mother country and its English colonies was a matter of indifference with the Canadians who knew not yet the advantages of a constitutional government. It is not then very strange that a people accustomed to military rule & despotism could not appreciate the blessings of a representative government, more particularly when that people had been kept in total ignorance by the French government.

The English colonies on their part nobly contested the right of Great Britain to tax them without their consent, and began that honorable discussion of freemen's rights which brought them to their glorious revolution. The English government alarmed at the discussion of such principles, and foreseeing that before long they should need the assistance of all their friends in America to crush the growing Republican spirit, began to relax the chains with which they had till then loaded their new subjects, the Canadians. In virtue of instructions received from the Home Government, Mr. Irving caused his council to pass, on the first day of July, 1766, an ordinance which declared that "all His Majesty's subjects in the Province of Quebec without any distinction, had a right to be chosen as jurors, to sit and act as jurors, in all the civil and criminal cases within the jurisdiction of all the Courts of justice in the said Province."

And for the more equal and impartial distribution of justice, it was declared and ordained that "in all causes or suits between English born subjects, the jurors shall be exclusively Englishmen; and that in the cases or suits between French Canadians, the juries shall be exclusively Canadians, and that in the cases or suits between English born subjects and French Canadians, the juries shall be composed of an equal number of each nation; if one of the parties wishes it."

It was also declared "that the Canadians could practice in the Courts as lawyers and Attorneys by conforming themselves to the rules which the said Courts may prescribe on that subject."

So we see that it was not till 6 years after the English had taken possession of Canada that the Canadians were allowed to act as jurors, and upon what laws were they called to give their opinions? On laws entirely unknown to them and in many parts (the civil law) inferior to those laws which had been taken away from them in so arbitrary a manner. The Canadians also by this ordinance had a right to practice as Lawyers and Attorneys, which right had been denied to them since the conquest. The object of the English government in not allowing the French lawyers to practice in Canada, was to force them even to leave the country and to emigrate to France. The policy of the government was to get rid of the educated men, certain that it could rule the people a great deal easier if the educated leaders were absent from the country. Had not the English government foreseen the difficulties

which it was soon to meet with its American Colonies, the Canadians would have been kept in the slavish bondage to which the English Government had reduced them since they had taken possession of this colony.

Whilst the noble freemen of the thirteen colonies were boldly discussing those rights which so justly belonged to them, the poor uneducated and oppressed people of Canada were quietly submitting to those acts which their neighbors regarded as unconstitutional and oppressive. On the 5th of July, 1766, a Proclamation was issued in the Quebec Gazette imposing taxes on wine, brandy, rum as also on exported and imported dry goods. Such a Proclamation in the other colonies would have excited a great deal of uneasiness, and would have been remonstrated against; but the Canadians yet untaught in the science of constitutional government submitted quietly to this royal order.

In the month of September of this year, Mr. Paulus Emilius Irving was relieved of his administration by the arrival of Sir G. Carleton; who was appointed Lieutenant Governor and Commander in Chief in the Province. When the new Governor arrived in Canada he found the country in the greatest possible commotion. The English population denied to the Canadians the right of being jurors as also of being qualified to act as members of the Legislative Council, whilst the Canadians thought themselves qualified to act in those capacities. The British wanted to treat their new subjects as a conquered people, whilst the latter contended that they ought to enjoy all the privileges of British subjects. Such was the state of things when Governor Carleton took the reins of the government in Canada.

The English government informed of those causes of dissension and misunderstanding and fearing that the Canadians would join the Americans in their schemes of resistance to the arbitrary projects of the mother country, ordered the new Governor to make an enquiry into the complaints of the Canadians. The Governor charged the Legislative Council to join their efforts to his, in finding the true causes of the grievances of which the Canadians were complaining as also the remedy they might think proper to apply.

The Legislative Council made a report on the 28th August, 1767, by which it was recommended to continue the English laws in the colony, and that in consequence they had ordered that Courts of justice should be established in the Province, and also that they had given orders to the different judges of the Province to follow those laws in all their decisions. They further reported that the introduction of the English laws into the colony was the principal cause of the dissatisfaction of the Canadians to which might be added their systematical exclusion from all places of honor or profit at the disposal of the government on account of their profession of the Catholic faith, in accordance with the statutes of Queen Elizabeth, King Charles the 2nd, and William the conqueror.

In 1770 and 1773, petitions were also sent from the Canadians to the throne and Imperial Parliament, renewing the same demands they had made in 1765; but these petitions met the same fate as the first one.

The crisis was fast approaching in the American colonies. The Boston tea affair had exasperated the British Government, which having no confidence in its present strength, did not try to find out the authors although they regarded it as an outrage. The Boston port bill had been passed, and it was easy to foresee that before long physical force would be the only judge to settle the matter in dispute between the Imperial Parliament and the American colonies. It was then necessary to make some concessions to the Canadians so as to ensure their co-operation against the Americans if it became necessary.

Governor Carleton went to England and was heard at the bar of the House of Commons, and from his suggestions the British Parliament was induced to make partial

concessions, to the Canadians in passing the act commonly known as the "Quebec Bill, 14th, George 3. chap. 83. As it was known in Canada that the English Parliament was about to adopt some plans for the government of the Province, the British settlers made a petition in which they asked that a representative form of government should be granted to them, but with the condition that the Canadians who were Roman Catholics should not be allowed to be elected to the House of Assembly or be named as members of the Legislative or Executive Councils. The Canadians on their part prayed only for a Legislative Council to which they might be admitted. Such was the nature of the demands of both parties. The Canadian nobility as also the Catholic Clergy were very much opposed to any form of constitutional government, and supported the old order of things. Although the pride of the Canadian noblemen was hurt when the English were asking that they (the Canadians) should not be eligible to places of profit or honor on account of their religion, and although the Catholic Clergy were much displeased about the exclusion of their followers on account of their religious creed, yet their thirst for domination and for supreme and absolute command, made them oppose all kind of Legislation except in the style of the old feudal system—of the two ways according to their inclination they preferred a Legislative Council to a representative House of Assembly as being more aristocratic and more in accordance with their views. The brave and eloquent Burke who was the boldest champion of colonial liberty, when the bill of Quebec was under discussion in the House of Commons, in reply to a member who was saying that the Canadian nobility was opposed to any change in the present government, said: "I would willingly sacrifice all the Noblesse not merely of Canada but of England and of all other countries, to make the majority of the people happy." In the critical state of things when the thirteen English Colonies were threatening to rebel, the Imperial Parliament thought proper to pass the act of which we give a copy to our readers to show how British policy will shift from one act to another entirely & diametrically opposed.

QUEBEC BILL,

14th, George III, Chapter 83.

Whereas—His Majesty has thought proper by his royal Proclamation of the 7th day of October, in the third year of his reign, to declare the regulations made for certain counties, territories and Islands in America which were ceded to him by the final treaty made at Paris the 10th day of February, 1763, and whereas by the arrangements made by the said royal Proclamation, our very great extent of countries, in which were then several colonies and settlements of subjects of the crown of France who are represented to have remained in said colonies on the faith of said treaty, have been left without regulation for the administration of civil government, and that in certain parts of the territory of Canada sedentary fisheries which have been established and settled by the subjects of France inhabiting the said province of Canada, on donations have been adjoined to the government of & concessions of said government of France Newfoundland, and that in consequence they have therefore submitted to regulations incompatible with the nature of said fisheries; therefore your Most Excellent Majesty will allow that it may be established by the King's Most Excellent Majesty with the advice and consent of the spiritual and temporal Lords and of the Commons assembled in this present Parliament and by the authority of said Parliament, that all the territories, Islands, countries in North America, belonging to the crown of Great Britain, bounded on the south by a line starting at *Baie des Chaleurs*, and running along the mountains which divide the rivers falling into the St. Lawrence from those discharging into the Atlantic, to a point under the 45° degree of latitude North, on the Eastern branches of Connecticut river, keeping the same latitude directly to the River St. Lawrence; from thence in following the Eastern shores of said river St. Lawrence to Lake Ontario, from thence along the middle of said lake Ontario and the river commonly called Niagara; and from thence along the Eastern and South-Eastern shores of Lake Erie, following the said shores to the

place where they shall be intersected by the northern limits granted by the Charter of the Province of Pennsylvania in case they should be thus intersected; and from thence along the said limits North and West of said Province till the said western limits meet the Ohio; but in the case where the said shores of said Lake are not thus intersected, then in following the said shore till we shall come to a point on said rivers which shall be the nearest to the north-west angle of said Province of Pennsylvania, and from thence in a straight line to the said north-west angle of said Province; and from thence along the western limits of said Province till it meets the Ohio river and along the shores of said river to the west to the shores of the Mississippi; and to the north to the southern limits of the country conceded to the Merchants of England who trade at Hudson's Bay; as also all the territories, Islands and countries which have since the 10th day of February, 1763, been annexed to the government of Newfoundland, are, and they are by these presents during His Majesty's pleasure, annexed and made parts and portions of the Province of Quebec; as it was erected and established by the said royal Proclamation of the 7th day of October, 1763.

II. With the condition nevertheless that nothing that is contained in this, concerning the limits of the Province of Quebec, shall disturb in any manner whatever, the limits of any other colony.

III. Provided also and it is established that nothing contained in this act shall extend or be construed to extend to annul, change, or alter any rights, titles or possessions resulting from any concessions, acts of cession or any other, of any lands in the Province or Provinces adjoining, and that the said titles shall remain valid and shall have the same effect as if this act had never been done.

IV. And whereas the regulations made by the said Proclamation, as to the civil government of said Province of Quebec, as also the powers and authority given to the Governor and to the other civil officers in the said Province, by concessions or commissions given in consequence thereof, have by experience been found disadvantageous to the state and to the circumstances of said Province, the number of its inhabitants at the conquest amounting to 65,000 persons professing the creed of the Church of Rome, and who were enjoying a permanent form of a constitution, and a system of laws, in virtue of which their persons and their properties have been protected, governed and regulated for a long series of time, from the first establishment of the said Province of Canada; therefore, it is also established by the aforesaid authority that the said Proclamation concerning the said Province of Quebec, that all the commissions in virtue of which the said Province is now governed, that all and every one of the ordinances made during that time by the Governor and Council of Quebec which relate to the civil government and to the administration of justice in the said Province, as also all the commissions of the judges and other officers thereof, by these presents are cancelled, recalled and annulled from and after the first day of May, 1775.

V. And for the most perfect security and tranquility of the minds of the inhabitants of the said Province, it is by these presents declared that His Majesty's subjects professing the worship of the Church of Rome, in the said Province of Quebec, may have, keep and enjoy the free exercise of the worship of the Church of Rome, submitted to the King's supremacy as declared and established by an act passed in the first year of the reign of Queen Elizabeth, on all the domains and countries which then belonged or which should belong to the imperial Crown of this kingdom, and that the clergy of said church may hold, receive and enjoy his dues and accustomed rights, only of persons who shall profess the said religion.

VI. Provided nevertheless that His Majesty, His heirs and successors may if they please, apply the overplus of said dues and accustomed rights to the encouragement of that Protestant Church and to the support and subsistence of a Protestant clergy if at any time thought necessary and useful.

VII. Provided also and it is established that all persons professing the religion of the Church of Rome and who shall reside in the said Province, shall not be obliged to take the oath prescribed by the said act passed in the first year of the reign of Queen Elizabeth or any other oath substituted in its lieu and place by any other act, but that all such persons who by the said statute it is ordered shall take the oath therein contained, shall be obliged and it is ordained to them to take and to subscribe to the following oath before the Governor or such other person in such record office as it may please His Majesty to establish, who are by these presents authorised to receive it, as follows:

"I—promise sincerely and affirm by oath that I shall be faithful, and that I shall bear true faith and fidelity to His Majesty King George, that I shall defend him with all my power and as far as I know personally, against all perfidious conspiracies and all treasonable attempts whatever that shall be undertaken against his person, his crown or his dignity; and that I shall use all my endeavours to discover and to give knowledge to His Majesty, His heirs and successors, of all treason, perfidious conspiracies and of all treasonable attempts that I may learn as being planned against him or any of them; and I make oath of all these things without any equivocation, mental subterfuge or secret restriction, renouncing all pardons and dispensations from any power whatever, to absolve me—So help me God."

And that all such persons who shall neglect or who shall refuse to take the said oath above written, shall be subject to the same pains, fines, disabilities and incapacities that they would have incurred and to which they would have been subjected for having neglected or refused to take the oath ordained by the said statute passed in the first year of the reign of Queen Elizabeth.

VIII. It is also established by the aforesaid authority that all His Majesty's Canadian subjects in the Province of Quebec (the religious order and communities excepted) may also hold their properties and possessions and enjoy them together with all the usages and customs which may concern them, and all the rights of citizenship in a manner as ample, as extended and as advantageous as if the said Proclamations, Commissions, Ordinances and other acts and instruments had not been done, in keeping to His Majesty the faith and fidelity they owe to him, and the submission due to the crown and to the Parliament of Great Britain; and that in all law-suits about their properties and their rights of citizenship, they shall follow the laws of Canada as the rules by which they must be decided; and all law-suits that shall be brought before any of the Courts of justice which shall be constituted in the said Province, by His Majesty, His heirs and successors, shall be decided as to such properties and as to such rights, in accordance with the laws and usages of Canada until these be changed or altered by any ordinances, which after this time shall be passed in the said Province by the Governor, the Lieutenant Governor or Commander in Chief, with the advice and consent of the Legislative Council which shall then be constituted in the manner herein-after mentioned.

IX. With the condition nevertheless that nothing that is contained in this act shall extend or shall be understood to extend to any of the lands which have been conceded by His Majesty, or shall be after this time conceded by His said Majesty, His heirs and successors, in free and common socage.

X. Provided also that it shall and that it may be lawful to all and every one, proprietor of immovables, moveables or interests in the said Province, who shall have the right to dispose the said immovables, moveables or interests during his life by sale, donations, or otherwise, to will and bequeath them at his death by his will and testament, notwithstanding all laws, usages and customs to the contrary which have prevailed or which now prevail in the said Province, either that the said will is made according to the laws of Canada or according to the forms prescribed by the laws of England.

XI. And whereas the clearness and mildness of the criminal laws of England from which great benefit and advantages result, have been sensibly experienced by the inhabitants for more than nine years, during which they have been uniformly administered; it is therefore also established by the aforesaid authority that they shall continue to be administered, and that they shall be observed as laws in the said Province of Quebec as well in the explanation and quality of the crime as in the manner to inform against it and to judge it according to the pains and fines which are by those laws inflicted, to the exclusion of all other regulations of criminal laws or manners of proceeding therat which have or may have prevailed in the said Province before the year of our Lord One Thousand Seven Hundred and Sixty Four, notwithstanding all things to the contrary contained in this act to all effects, subject nevertheless to such changes and corrections that the Governor, Lieutenant Governor or Commander in Chief with the advice and consent of the Legislative Council of the said Province which shall therein be henceforward established, shall make in future, in the manner hereafter ordained.

XII. As it may also be necessary to ordain several regulations for the future happiness and good government of the Province of Quebec of which we cannot now foresee the case and which could not be established now without running the risk of long delay and much inconvenience, unless we trust the authority thereof during a certain space of time and under proper limitation, to persons who shall reside therein; and that now it is extremely disadvantageous to convocate an Assembly in